

Int'l. Fishing and Related Activities

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not be used to interact with a data buoy while the fishing vessel is in the Convention Area. Interact with a data buoy means to engage in conduct that could impair the functioning of a data buoy through actions that include but that are not limited to the following: encircling the buoy with fishing gear; tying up to or attaching the vessel, or any fishing gear, part or portion of the fishing vessel, including equipment such as watercraft, to a data buoy or its mooring; or cutting a data buoy anchor line.

(3) A vessel operator, crew member, or other persons on board a fishing vessel of the United States that is used to fish for HMS may not remove a data buoy or any parts thereof from the water and place it on board the fishing vessel or tow a data buoy when in the Convention Area unless authorized to do so by the owner of the data buoy or an authorized representative or agent of the owner. When practicable, advance written authorization must be available onboard a U.S. fishing vessel that has taken on board or tows a data buoy. In all other cases, a written document (e.g., fax, email) verifying the authorization must be obtained by the vessel owner or operator within 15 days of landing.

(4) In the event that a fishing vessel of the United States that is used to fish for HMS or any of its fishing gear, equipment, or associated watercraft, becomes entangled with a data buoy while the fishing vessel is in the Convention Area, the owner and operator of the fishing vessel must promptly remove the entangled fishing vessel, fishing gear, equipment, or associated watercraft with as little damage to the data buoy and its mooring and anchor lines as possible.

(5) A vessel operator, crew member, or other persons on board a fishing vessel of the United States that is used to fish for HMS must take all reasonable measures to avoid fishing gear entanglement or interaction with drifting data buoys.

(h) *Bluefin tuna commercial catch limits in the eastern Pacific Ocean.* (1) After the dates specified in a notice published by Regional Administrator in the FEDERAL REGISTER, a United States vessel engaged in commercial fishing

may not target or retain bluefin tuna in the Convention Area for the remainder of the calendar year. NMFS will publish such a notice prohibiting further targeting and retention of Pacific bluefin tuna on the projected dates for the remainder of 2013 when 3,295 metric tons or more have been harvested in 2013 by the commercial fishing vessels of all IATTC member countries and co-operating non-member countries. This prohibition will not be effective unless and until the annual commercial harvest of Pacific bluefin tuna by the United States fleet has reached 500 metric tons.

(2) [Reserved]

[64 FR 44431, Aug. 16, 1999, as amended at 66 FR 49320, Sept. 27, 2001. Redesignated at 69 FR 67277, Nov. 17, 2004; 74 FR 1620, Jan. 13, 2009; 74 FR 61051, Nov. 23, 2009; 76 FR 68338, Nov. 4, 2011; 76 FR 68338, Nov. 4, 2011; 78 FR 33643, June 4, 2013]

Subpart D—South Pacific Tuna Fisheries

AUTHORITY: 16 U.S.C. 973–973r.

§ 300.30 Purpose and scope.

This subpart implements the South Pacific Tuna Act of 1988 (Act) and the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty) and applies to persons and vessels subject to the jurisdiction of the United States.

§ 300.31 Definitions.

In addition to the terms defined in § 300.2, in the Act, and in the Treaty, and unless the context requires otherwise, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Treaty, the definition in this section shall apply.

Administrator means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States.

Applicable national law means any of the laws of Pacific Island Parties in the following table and any regulations or other instruments having the force of

law implemented pursuant to these laws:

| Pacific Island Party | Laws |
|--------------------------------|---|
| AUSTRALIA | Antarctic Marine Living Resources Conservation Act, 1981. Fisheries Management Act, 1991. Fisheries Administration Act, 1991. Statutory Fishing Rights Charge Act, 1991. Fisheries Legislation (Consequential Provisions) Act, 1991. Foreign Fishing Licences Levy Act, 1991. Fishing Levy Act, 1991. Fisheries Agreements (Payments) Act, 1991. Torres Strait Fisheries Act, 1984. Whale Protection Act, 1980. |
| COOK ISLANDS | Exclusive Economic Zone (Foreign Fishing Craft) Regulations, 1979. Territorial Sea and Exclusive Economic Zone Act, 1977. Marine Resources Act, 1989. |
| FEDERATED STATES OF MICRONESIA | Titles 18 and 24 of the Code of the Federated States of Micronesia, as amended by Public Law Nos. 2–28, 2–31, 3–9, 3–10, 3–34, and 3–80. |
| FIJI | Fisheries Act (Cap. 158). Fisheries Regulations (Cap. 158). Marine Spaces Act (Cap. 158A). Marine Spaces (Foreign Fishing Vessels) Regulations, 1979. |
| KIRIBATI | Fisheries Ordinance, 1979. Fisheries (Amendment) Act, 1984. Marine Zones (Declaration) Act, 1983. Fisheries (Pacific Island States' Treaty with the United States) Act 1988. |
| MARSHALL ISLANDS | Title 33, Marine Resources Act, as amended by P.L. 1989–56, P.L. 1991–43, and P.L. 1992–25 of the Marshall Islands Revised Code. |
| NAURU | Interpretation Act, 1971. Interpretation Act (Amendment) Act No. 1 1975. Interpretation Act (Amendment) Act No. 2 1975. Marine Resources Act, 1978. |
| NEW ZEALAND | Antarctic Marine Living Resources Act, 1981. Continental Shelf Act, 1964. Conservation Act, 1987. Driftnet Prohibition Act, 1991. Exclusive Economic Zone (Foreign Fishing Craft) Regulations, 1978. Fishing Industry Board Act, 1963. Fisheries Act, 1983. Marine Mammals Protection Act, 1978. Marine Reserves Act, 1971. Marine Pollution Act, 1974. Meat Act, 1964. Territorial Sea and Exclusive Economic Zone Act, 1977. Tokelau (Territorial Sea and Exclusive Economic Zone) Act, 1977. Submarine Cables and Pipelines Protection Act, 1966. Sugar Loaf Islands Marine Protected Area Act, 1991. Wildlife Act, 1953. |
| NIUE | Niue Fish Protection Ordinance 1965. Sunday Fishing Prohibition Act 1980. Territorial Sea and Exclusive Economic Zone Act 1978. |
| PALAU | Palau National Code, Title 27. |
| PAPUA NEW GUINEA | Fisheries Act (Cap 214). Fisheries Regulations (Cap 214). Fisheries (Torres Strait Protected Zone) Act, 1984. National Seas Act (Cap 361). Tuna Resources Management Act (Cap 224). Whaling Act (Cap 225). |
| SOLOMON ISLANDS | Delimitation of Marine Waters Act, 1978. Fisheries Act, 1972. Fisheries Limits Act, 1977. Fisheries Regulations, 1972. Fisheries (Foreign Fishing Vessels) Regulations, 1981. Fisheries (United States of America) (Treaty) Act 1988. |
| TONGA | Fisheries Act, 1989. |
| TUVALU | Fisheries Act (Cap 45). Fisheries (Foreign Fishing Vessel) Regulations, 1982. Marine Zones (Declaration) Act, 1983. Foreign Fishing Vessels Licensing (US Treaty) Order 1987. |
| VANUATU | Fisheries Act 1982 (Cap 158). Fisheries Regulations, 1983. Maritime Zones Act 1981 (Cap 138). |

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|----------------------|--|
| SAMOA | Exclusive Economic Zone Act, 1977. Territorial Sea Act, 1971. Fisheries Act, 1988. |

Authorized inspector means any individual authorized by a Pacific Island Party or the Secretary to conduct inspections, to remove samples of fish and to gather any other information relating to fisheries in the Licensing Area.

Authorized officer means any officer who is authorized by the Secretary, or the Secretary of Transportation, or the head of any Federal or state agency that has entered into an enforcement

agreement with the Secretary under section 10(a) of the Act.

Authorized party officer means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

Closed area means any of the areas in the following table, as depicted on charts provided by the Regional Administrator and as further described in additional information that may be provided by the Regional Administrator:

| Pacific Island Party | Area |
|--------------------------------|---|
| AUSTRALIA | All waters within the seaward boundary of the Australian Fishing Zone (AFZ) west of a line connecting the point of intersection of the outer limit of the AFZ by the parallel of latitude 25° 30' South with the point of intersection of the meridian of longitude 151° East by the outer limit of the AFZ and all waters south of the parallel of latitude 25° 30' South. |
| COOK ISLANDS | Territorial Sea. |
| FEDERATED STATES OF MICRONESIA | Three nautical mile territorial sea and nine nautical mile exclusive fishery zone and on all named banks and reefs as depicted on the following charts: DMAHTC NO 81019 (2nd. ed., Mar. 1945; revised 7/17/72; corrected through NM 3/78 of 21 June 1978). DMAHTC NO 81023 (3rd. ed., 7 Aug. 1976). DMAHTC NO 81002 (4th. ed., 26 Jan. 1980; corrected through NM 4/80). |
| FIJI | Internal waters, archipelagic waters and territorial seas of Fiji and Rotuma and its Dependencies. |
| KIRIBATI | Within archipelagic waters as established in accordance with Marine Zones (Declaration) Act 1983; within 12 nautical miles drawn from the baselines from which the territorial seas is measured; and within 2 nautical miles of any anchored fish aggregating device within the Kiribati exclusive economic zone for which notification of its location shall be given by geographical coordinates. |
| MARSHALL ISLANDS | 12 nautical mile territorial sea and area within two nautical miles of any anchored fish aggregating device within the Marshall Islands exclusive economic zone for which notification of its location shall be given by geographical coordinates. |
| NAURU | The territorial waters as defined by Nauru Interpretation Act, 1971, Section 2. |
| NEW ZEALAND | Territorial waters; waters within 6 nautical miles of outer boundary of territorial waters; all waters to west of New Zealand main islands and south of 39° South latitude; all waters to east of New Zealand main islands south of 40° South latitude; and in respect of Tokelau: areas within 12 nautical miles of all island and reef baselines; twelve and one half nautical miles either side of a line joining Atafu and Nukunonu and Faka'ofu; and coordinates as follows: Atafu: 8°35'10" S, 172°29'30" W Nukunonu: 9°06'25" S, 171°52'10" W 9°11'30" S, 171°47'00" W Faka'ofu: 9°22'30" S, 171°16'30" W |
| NIUE | Territorial sea and within 3 nautical miles of Beveridge Reef, Antiope Reef and Haran Reef as depicted by appropriate symbols on NZ 225F (chart showing the territorial sea and exclusive economic zone of Niue pursuant to the Niue Territorial Sea and Exclusive Economic Zone Act of 1978). |
| PALAU | Within 12 nautical miles of all island baselines in the Palau Islands; and the area: commencing at the north-eastermost intersection of the outer limit of the 12 nautical mile territorial sea of Palau by the arc of a circle having a radius of 50 nautical miles and its center at Latitude 07°16'34" North, longitude 134°28'25" East, being at about the center of the reef entrance to Malakal Pass; running thence generally south-easterly, southerly, south-westerly, westerly, north-westerly, northerly and north-easterly along that arc to its intersection by the outer limit of the 12 nautical mile territorial sea; and thence generally northerly, north-easterly, easterly, south-easterly and southerly along that outer limit to the point of commencement. |

| Pacific Island Party | Area |
|-------------------------------------|--|
| PAPUA NEW GUINEA SOLOMON ISLANDS | Where for the purpose of these specifications it is necessary to determine the position on the surface of the Earth of a point, line or area, it shall be determined by reference to the World Geodetic System 1984; that is to say, by reference to a spheroid having its center at the center of the Earth and a major (equatorial) radius of 6,378,137 meters and a flattening of 1/298.2572. All territorial seas, archipelagic and internal waters. |
| TONGA | All internal waters, territorial seas and archipelagic waters; and such additional waters around the main group archipelago, as defined under the Delimitation of Marine Waters Act 1978, not exceeding sixty nautical miles. |
| TUVALU | All waters with depths of not more than 1,000 meters, within the area bounded by the fifteenth and twenty third and one half degrees of south latitudes and the one hundred and seventy third and the one hundred and seventy seventh degrees of west longitudes; also within a radius of twelve nautical miles from the islands of Teleki Tonga and Teleki Tokelau. |
| VANUATU SAMOA | Territorial sea and waters within two nautical miles of all named banks, that is Macaw, Kosciusko, Rose, Bayonnaise and Hera, in Tuvalu exclusive economic zone, as depicted on the chart entitled "Tuvalu Fishery Limits" prepared by the United Kingdom Hydrographic Department, Taunton, January 11, 1981. Archipelagic waters and the territorial sea, and internal waters. Territorial sea; reefs, banks and sea-mounts and within 2 nautical miles of any anchored fish aggregating device within the Samoa exclusive economic zone for which notification of its location shall be given by geographical coordinates. |

FFA Vessel Register means the registry of fishing vessels maintained by the FFA, comprising those vessels which are in good standing and licensed to fish in the waters of FFA member countries, including those vessels licensed under § 300.32.

Fishing means searching for, catching, taking, or harvesting fish; attempting to search for, catch, take, or harvest fish; engaging in any other activity that can reasonably be expected to result in the locating, catching, taking, or harvesting of fish; placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons; any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or aircraft use, relating to the activities described in this definition, except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

Fishing arrangement means an arrangement between a Pacific Island Party and the owner of a U.S. fishing vessel that complies with section 6(b) of the Act.

Fishing vessel or *vessel* means any boat, ship, or other craft that is used for, equipped to be used for, or of a type normally used for commercial fishing, and that is documented under the laws of the United States.

Licensing Area means all waters in the Treaty Area except for:

(1) Those waters subject to the jurisdiction of the United States in accordance with international law.

(2) Those waters within closed areas.

(3) Those waters within limited areas closed to fishing.

Licensing period means the period of validity of licenses issued in accordance with the Treaty.

Operator means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master.

Pacific Island Party means a Pacific island nation that is a party to the Treaty.

Pacific Islands Forum Fisheries Agency or *FFA* means the organization established by the 1979 South Pacific Forum Fisheries Agency Convention.

Regional Administrator means the Regional Administrator, Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814, facsimile: 808-973-2941, or a designee.

State means each of the several States of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

Transship means to unload any or all of the fish on board a licensed vessel either ashore or onto another vessel.

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Treaty Area means all waters north of 60° S. lat. and east of 90° E. long., subject to the fisheries jurisdiction of Pacific Island Parties, and all other waters within rhumb lines connecting the following points, except for waters subject to the jurisdiction in accordance with international law of a State which is not a party to the Treaty:

| Point | Latitude | Longitude |
|-------|-------------|---|
| A | 2°35'39" S | 141°00'00" E |
| B | 1°01'35" N | 140°48'35" E |
| C | 1°01'35" N | 129°30'00" E |
| D | 10°00'00" N | 129°30'00" E |
| E | 14°00'00" N | 140°00'00" E |
| F | 14°00'00" N | 142°00'00" E |
| G | 12°30'00" N | 142°00'00" E |
| H | 12°30'00" N | 158°00'00" E |
| I | 15°00'00" N | 158°00'00" E |
| J | 15°00'00" N | 165°00'00" E |
| K | 18°00'00" N | 165°00'00" E |
| L | 18°00'00" N | 174°00'00" E |
| M | 12°00'00" N | 174°00'00" E |
| N | 12°00'00" N | 176°00'00" E |
| O | 5°00'00" N | 176°00'00" E |
| P | 1°00'00" N | 180°00'00" E |
| Q | 1°00'00" N | 164°00'00" W |
| R | 8°00'00" N | 164°00'00" W |
| S | 8°00'00" N | 158°00'00" W |
| T | 0°00'00" S | 150°00'00" W |
| U | 6°00'00" S | 150°00'00" W |
| V | 6°00'00" S | 146°00'00" W |
| W | 12°00'00" S | 146°00'00" W |
| X | 26°00'00" S | 157°00'00" W |
| Y | 26°00'00" S | 174°00'00" W |
| Z | 40°00'00" S | 174°00'00" W |
| AA | 40°00'00" S | 171°00'00" W |
| AB | 46°00'00" S | 171°00'00" W |
| AC | 55°00'00" S | 180°00'00" W |
| AD | 59°00'00" S | 160°00'00" E |
| AE | 59°00'00" S | 152°00'00" E and north along the 152 degrees of East longitude until intersecting the Australian 200-nautical-mile limit. |

UTC means Universal Coordinated Time.

Vessel Monitoring System Unit or *VMS unit*, sometimes known as a "mobile transmitting unit," means Administrator-approved and NMFS-approved VMS unit hardware and software that is installed on a vessel pursuant to §300.45. The VMS units are a component of the regional vessel monitoring system administered by the FFA, as well as of the vessel monitoring system administered by NMFS, and as such are used to transmit information between the vessel and the Administrator and NMFS and/or other reporting points designated by NMFS.

[61 FR 35550, July 5, 1996, as amended at 72 FR 6149, Feb. 9, 2007; 75 FR 74643, Dec. 1, 2010]

§ 300.32 Vessel licenses.

(a) Each vessel fishing in the Licensing Area must have a license issued by the Administrator for the licensing period being fished, unless exempted by §300.39. Each licensing period begins on June 15 and ends on June 14 of the following year.

(b) Upon receipt, the license or a copy or facsimile thereof must be carried on board the vessel when in the Licensing Area or Closed Areas, and must be produced at the request of authorized officers, authorized party officers, or authorized inspectors. A vessel may be used to fish in the Licensing Area if the license has been issued but not yet received, provided that the license number is available on board.

(c) The total number of licenses that may be issued and valid at any point in time is 45, five of which shall be reserved for fishing vessels of the United States engaged in joint venture arrangements.

(1) For the purpose of this section, the licenses reserved for vessels engaged in joint venture arrangements are referred to as "joint venture licenses," and the remaining licenses are referred to as "general licenses."

(2) A joint venture arrangement is one in which the subject vessel and its operators are engaged in fishing-related activities designed to maximize the benefits generated for the Pacific Island Parties from the operations of fishing vessels licensed pursuant to the Treaty, as determined by the Administrator. Such activities can include the use of canning, transshipment, vessel slipping and repair facilities located in the Pacific Island Parties; the purchase of equipment and supplies, including fuel supplies, from suppliers located in the Pacific Island Parties; and the employment of nationals of the Pacific Island Parties on board such vessels.

(d) Licenses are issued by the Administrator. The Administrator will issue licenses only for applications that have been approved by the Regional Administrator. The Regional Administrator's approval is indicated by the signature of the Regional Administrator on the part of the application form labeled "Schedule 1." Upon approval by the Regional Administrator of a license application, the complete application will